



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION**

TY'KEE WALMSLEY, §
Plaintiff, §
§
vs. § Civil Action No. 0:24-3730-MGL
§
ENCOMPASS HEALTH REHABILITATION §
HOSPITAL OF ROCK HILL, LLC, §
Defendant. §

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND GRANTING DEFENDANT'S PARTIAL MOTION TO DISMISS**

Plaintiff Ty'Kee Walmsley (Walmsley), who is representing herself, brought this action against her former employer, Defendant Encompass Health Rehabilitation Hospital of Rock Hill, LLC (Encompass), alleging discrimination in violation of the Americans with Disabilities Act (ADA), 42 U.S.C. § 12102, *et seq.*, and the Family and Medical Leave Act, 29 U.S.C. § 2601, *et seq.*

This matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge recommending the Court grant Encompass's motion to dismiss with prejudice Walmsley's ADA failure-to-promote claim. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court

may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on October 16, 2024. To date, Walmsley has failed to file any objections.

“[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845–46 (4th Cir. 1985).

After a thorough review of the Report and record in this case under the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court Encompass’s partial motion to dismiss is **GRANTED**, and Walmsley’s ADA failure-to-promote claim is **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

Signed this 12th day of November 2024, in Columbia, South Carolina.

s/ Mary Geiger Lewis
 MARY GEIGER LEWIS
 UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of their right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.